

International Federation of
Library Associations and Institutions

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Malawi: embrace the spirit of the Marrakesh Treaty – no commercial availability test

EIFL, AFLIA and IFLA call for the removal of a commercial availability test on the making of accessible format copies in Malawi. Inclusion of this test in the Malawi law undermines the objective of the Marrakesh Treaty which is to end the global ‘book famine’ for persons with print disabilities.

An analysis by EIFL of Malawi’s copyright law, adopted in September 2016, shows that while the new law permits a range of library activities and services, complex conditions limit in practice what libraries in Malawi are permitted to do.

In particular the requirement to check if a work is commercially available before an accessible format copy can be made is deeply disappointing. ARIPO Guidelines for the domestication of the Marrakesh Treaty in Africa state, “In view of diverse socio-economic and cultural situations prevailing in developing countries, and in most ARIPO Member States, *it may be difficult for authorised entities or beneficiary persons and persons acting on their behalf to ascertain whether or not accessible format copies are obtainable commercially and reasonably in the market*” (our emphasis).

“For a work published outside Malawi, it is impossible to ascertain with certainty whether it is available in the format needed. For Malawi’s community of more than 10,000 people who are blind or visually impaired, it will inevitably result in information requests that are delayed or denied,” said Dick Kawooya, Assistant Professor, University of South Carolina, USA.

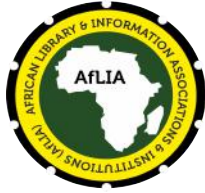
The introduction of a commercial availability test would also put Malawi’s law out of step with other countries ratifying the Marrakesh Treaty in Africa and around the world.

“The Marrakesh Treaty is a bold international initiative to address the ‘book famine’, in particular, in sub-Saharan Africa where the absence of accessible texts is acute. Malawi’s copyright law should show itself to be as generous as the Treaty itself, and should not impose restrictions and unnecessary costs on libraries striving to provide Malawians with accessible materials,” said Professor Peter Jaszi, American University Washington College of Law.

“The diversion of limited resources available for accessibility work to commercial availability research is, from our point of view, an unacceptable waste of philanthropic and public resources. Therefore we won’t provide Bookshare content under the Marrakesh Treaty to countries with a commercial availability test. Nor will we offer the Bookshare technology platform for domestic accessible library services in such countries,” said Jim Fruchterman, Founder/CEO Bookshare, the world’s largest accessible online library for people with print disabilities.

Malawi, that joined the Marrakesh Treaty on 14 July 2017, is in a strong position to provide leadership in Africa on a domestic implementation that respects both the spirit and the letter of the Treaty. But to achieve this, restrictions such as a commercial availability test, must be removed.

EIFL, AFLIA and IFLA call on the government of Malawi to empower libraries to provide the best services that they can to people in Malawi with print disabilities for education, employment, and leisure.



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Background

The Marrakesh Treaty for persons with print disabilities aims to end the 'book famine', the fact that only 7% of published works are available globally in accessible formats, such as Braille, audio, large print, and digital formats. In the developing world, where 90% of blind and visually impaired people live, the figure is less than 1%.

Electronic Information for Libraries (EIFL) works with libraries to enable access to knowledge in more than 50 developing and transition economy countries in Africa, Asia Pacific, Europe and Latin America.

African Library and Information Associations and Institutions (AFLIA) is the trusted African voice for the library and information community, and drives equitable access to information and knowledge for all.

The International Federation of Library Associations and Institutions (IFLA) is the leading international body representing the interests of library and information services and their users. It is the global voice of the library and information profession.

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